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Proposed Counsel for Debtor  
and Debtor in Possession

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF HAWAII

In re

HAWAIIAN AIRLINES, INC.,  
a Hawaii corporation,

Debtor.

Case No. 03 -00817  
(Chapter 11)

**APPLICATION OF DEBTOR FOR  
ORDER PURSUANT TO SECTION 327(e)  
OF THE BANKRUPTCY CODE  
AUTHORIZING THE RETENTION AND**

**EMPLOYMENT OF MARR HIPP JONES  
& PEPPER AS SPECIAL COUNSEL TO  
THE DEBTOR; EXHIBIT A; PROPOSED  
ORDER**

Date: March 21, 2003  
Time: 2:30 p.m.  
Judge: Hon. Robert J. Faris

Hawaiian Airlines, Inc., as debtor and debtor in possession (the "Debtor"), by and through its undersigned proposed co-counsel, files this Application for an Order Authorizing the Retention and Employment of Marr Hipp Jones & Pepper ("MHJP") as Special Counsel to the Debtor (the "Application") pursuant to section 327(e) of title 11 of the United States Code and Rule 2014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"). In support of the Application, the Debtor respectfully represents as follows:

**I. JURISDICTION**

1. This Court has jurisdiction over the subject matter pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper in this District pursuant to 28 U.S.C. § 1409. The instant proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). The Court possesses the requisite authority to grant the relief requested herein pursuant to section 327(e) of title 11 of the United States Code and Bankruptcy Rule 2014.

## **II. BACKGROUND**

2. On March 21, 2003 (the “Petition Date”), the Debtor filed a petition for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of Hawaii (the “Bankruptcy Court”). Pursuant to sections 1107(a) and 1108 of the Bankruptcy Code, the Debtor is operating its businesses and managing its properties as a debtor in possession. No trustee, examiner or committee of creditors has been appointed in the Debtor’s chapter 11 case.

3. The Debtor was incorporated in January of 1929 under the laws of the Territory of Hawaii and is currently a subsidiary of Hawaiian Holdings, Inc. (“Hawaiian Holdings”),<sup>1</sup> a Delaware corporation whose common stock is traded on the American Stock Exchange and Pacific Exchange under the ticker symbol “HA.” As part of the regular Securities and Exchange Commission filings of Hawaiian Holdings, Hawaiian Holdings reports its financial and operating results with those of the Debtor on a consolidated basis.

### **The Debtor’s Business**

4. The Debtor is engaged primarily in the scheduled transportation of passengers, cargo and mail. The Debtor’s passenger airline business is its chief

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<sup>1</sup> Hawaiian Holdings holds 49.1% of the outstanding common stock of the Debtor directly. The remaining 50.9% of the outstanding common stock of the Debtor is held by AIP, Inc. (“AIP”), a wholly-owned subsidiary of Hawaiian Holdings.

source of revenue. Principally all of the Debtor's flights either originate or end in the state of Hawaii. The Debtor provides passenger and cargo service from Hawaii, predominately Honolulu, to the cities of Los Angeles, Ontario, Sacramento, San Diego and San Francisco, California; Seattle, Washington; Portland, Oregon; Phoenix, Arizona; and Las Vegas, Nevada (the "Transpacific Routes"). The Debtor also provides non-stop service between and among the six major islands of the state of Hawaii (the "Interisland Routes") and weekly service to each of Pago Pago, American Samoa and Pepeeete, Tahiti in the South Pacific (the "South Pacific Routes"). Charter service is provided from Honolulu to Anchorage, Alaska (the "Charter Routes"). Based upon the Debtor's operating revenues, the Debtor is the largest airline headquartered in Hawaii.

5. Based on its unaudited results, the Debtor had a net loss of approximately \$58 million for the twelve months ended December 31, 2002 ("Year 2002") on operating revenue of approximately \$632 million for the same period. In comparison, for the twelve months ended December 31, 2001 ("Year 2001"), the Debtor reported net income of approximately \$5 million on operating revenue of approximately \$612 million for the same period. The Debtor's assets and liabilities, as of December 31, 2002, were approximately \$256 million and \$399 million, respectively. The Debtor's reported assets and liabilities, as of

December 31, 2001, were approximately \$305 million and \$327 million, respectively.

6. The Debtor is party to a network of agreements among airlines. Because of the interdependent nature of airline operations, coordination among airlines, provision of airline services, and efficient service by the airline industry to the traveling public, in general, would be virtually impossible without such agreements. Among other things, these agreements facilitate cooperation among airlines with respect to such critical activities as making reservations and transferring passengers, packages, baggage and mail among airlines.

#### **The Debtor's Fleet**

7. Beginning in the fourth quarter of 1999, the Debtor initiated a plan to replace its entire fleet of McDonnell Douglas DC-9 aircraft used to service its Interisland Routes. This effort was completed in the first quarter of 2002, with the Debtor taking delivery of thirteen Boeing 717-200 aircraft (the "717 Aircraft").

8. Similarly, in the fourth quarter of 2001, the Debtor initiated a plan to replace, by June 2003, its entire fleet of McDonnell Douglas DC-10 aircraft (the "DC-10 Aircraft") used to service the Transpacific Routes, South Pacific Routes and Charter Routes (the "Overseas Routes") with sixteen Boeing 767-300ER aircraft (the "767 Aircraft"). To date, the Debtor has taken delivery of ten new and four used Boeing 767-300ER aircraft and has returned eleven DC-10 Aircraft

leased from Continental Airlines, Inc. and a subsidiary of American Airlines, Inc ("American"). The Overseas Routes are currently serviced by fourteen Boeing 767-300ER aircraft.

9. All of the Debtor's aircraft are leased from various lessors under either financing or operating leases. Three of the Debtor's 767 Aircraft are leased under fifteen-year operating leases with a subsidiary of Ansett Worldwide Aviation Services, Inc. ("Ansett") and were delivered to the Debtor in the fourth quarter of 2001. Four 767 Aircraft were delivered in 2002 under seven-year operating leases with International Lease Finance Corporation. Seven of the Debtor's 767 Aircraft are leased under eighteen-year operating leases from Ansett and a subsidiary of Boeing Capital Corporation ("Boeing"). Each of the 717 Aircraft is leased under an eighteen-year leveraged financing lease with Boeing. The Debtor's four remaining DC-10 Aircraft are leased under operating leases with American and B.C.I. Leasing.

### **Employees**

10. The Debtor has approximately 3,200 active employees, approximately 2,600 of which are employed on a full time basis. The majority of the Debtor's employees are covered by labor agreements with the International Association of Machinists and Aerospace Workers (AFL-CIO) ("IAM"); the Airline Pilots Association, International ("ALPA"); the Association of Flight Attendants

("AFA"); the Transport Workers Union ("TWU"); or the Employees of the Communications Section ("Communications Section"). Each of these labor agreements, other than the contract with the seven-member Communications Section, was renegotiated in 2000 or 2001, and will be subject to renegotiation again in 2004 or 2005.

### **Previous Restructurings**

11. On September 21, 1993, the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code with the Bankruptcy Court (the "1993 Bankruptcy").<sup>2</sup> Following confirmation of the Debtor's plan of reorganization in the 1993 Bankruptcy on August 30, 1994, the Debtor successfully emerged from the 1993 Bankruptcy. Thereafter, on August 29, 2002, the Debtor was restructured from a public company into a wholly-owned subsidiary of Hawaiian Holdings and AIP (the "Restructuring"). As part of the Restructuring, the stockholders of the Debtor became stockholders of Hawaiian Holdings and Hawaiian Holdings assumed sponsorship of the Debtor's existing stock agreements. Prior to the Restructuring, the common stock of the Debtor was publicly traded on the American Stock Exchange and Pacific Exchange under Hawaiian Holdings' ticker symbol of "HA."

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<sup>2</sup> United States Bankruptcy Court, District of Hawaii, Case No. 93-01074.

## **The Debtor's Current Financial Crisis**

12. The Debtor's current financial crisis was precipitated by a confluence of factors relating, in large part, to the depressed economic conditions of both the United States and Japan. These factors include: (a) decreased fare revenue, (b) high aircraft lease costs, (c) high labor costs and (d) increased insurance, security and fuel costs. Although the terrorist attacks of September 11, 2001 are one of the most obvious and publicized reasons for the Debtor's current financial crisis, it is the significant, though related, decline in the economies of the United States and Japan that has most contributed to the necessity of the Debtor's chapter 11 filing.

13. Following the events of September 11, 2001, the Debtor has seen a marked and dramatic reduction in the demand for travel to and within the islands of Hawaii. This reduced demand has been exacerbated by the flagging economies of the United States and Japan since that time. The demand for vacation travel, which historically has been the Debtor's greatest source of income, has been most affected by the economic decline. In order to attract passengers, airlines, including the Debtor, have been forced to lower their fares. The introduction of "low cost carriers," such as Jet Blue, has led to a further reduction in fare structure, as national airlines have been forced to reduce ticket prices to remain competitive. The combination of fewer ticket sales made at reduced fares continues to impact the Debtor's revenue and earnings negatively.



14. Beginning in late 1999, as discussed above, the Debtor began a refueling process under which its aging fleet of McDonnell Douglas DC-9 aircraft and DC-10 Aircraft would be completely replaced by the end of 2003. By July of 2001, the Debtor had entered into the last of its agreements with lessors that would provide the aircraft for this refueling. Although the terms of these agreements were considered to be fair and at market rates when agreed to, the subsequent and unforeseen decline in economic conditions in the United States and abroad have caused the terms of such leases to be highly unfavorable. Because its aircraft lease costs are grounded in economic assumptions that have failed to materialize, the Debtor has been forced to shoulder the crippling costs of over-market leases. For the Year 2002, expenses associated with the Debtor's aircraft leases made up 12% of its total operating expenses.

15. Similarly, because the Debtor's union agreements were renegotiated in 2000 and 2001, the Debtor's labor costs have not been in line with current economic conditions. Based upon market assumptions made in 2000 and pre-September 11, 2001, the Debtor's labor costs have exceeded what the Debtor could realistically maintain based upon its revenues. This relative increase in labor costs, as compared to revenue, has negatively impacted the Debtor's ability to remain a viable enterprise. For the Year 2002, the Debtor's labor costs made up 30% of its total operating expenses.

16. As a direct result of the events of September 11, 2001 and the long-standing international crises in the Middle East, the Debtor has seen increases in several of its cost centers. For instance, insurance rates associated with airline operations have increased substantially as compared to pre-September 11, 2001 rates. Because of increased airline security requirements, the Debtor also has been faced with increased security expenditures. Moreover, fuel costs, which made up approximately 14% of the Debtor's operating expenses for Year 2002, also have steadily increased during this period. These increased costs, in the face of declining revenues, have further weakened the Debtor's ability to succeed as a going-concern.

### **Prepetition Activities**

17. The two largest controllable components of the Debtor's cost structure are labor and aircraft costs. These are, therefore, the two areas upon which the Debtor had focused prior to the Petition Date in trying to accomplish a successful out-of-court financial and operational restructuring. To that end, the Debtor has, particularly within the past year, been actively negotiating with both its aircraft lessors and labor unions to reduce its aircraft and labor costs, respectively. These negotiations have continued up until the Debtor's bankruptcy filing. On February 20, 2003, the Debtor's employees represented by IAM agreed to \$3.8 million in concessions. On March 6, 2003, the Debtor's employees represented by ALPA

reached an agreement with the Debtor with respect to approximately \$8 million in concessions. Similarly, on March 11, 2003, the Debtor's employees represented by AFA agreed to approximately \$3.5 million in concessions. Although the Debtor and its labor unions have made great progress in these negotiations, it now appears that the only practicable way for the Debtor to reorganize is under the protection afforded to it under the Bankruptcy Code, as the Debtor has not been successful in its attempts to negotiate significant concessions from its aircraft lessors.

### **III. RELIEF REQUESTED**

18. By this Application, the Debtor respectfully requests entry of an order authorizing it to employ and retain MHJP as special counsel to the Debtor to provide services, to the extent necessary and as requested by the Debtor, with respect to issues that may arise during the chapter 11 case related to United States and Hawaii labor and employment law (the "Special Counsel Matters").

#### **Basis for Relief Requested**

19. The Debtor seeks to retain MHJP as special counsel to handle the Special Counsel Matters because of (a) MHJP's extensive experience and expertise with respect to employment law, and (b) the general knowledge and information that MHJP obtained regarding the Debtor and its business and operations as a result of MHJP's prepetition services to the Debtor.

20. MHJP has represented the Debtor on employment law issues since 1998. As a result of its efforts over the past five years, MHJP is intimately familiar with the complex legal issues that have arisen and are likely to arise in connection with the Debtor's employment issues.

21. The Debtor believes that both the interruption and the duplicative cost involved in obtaining substitute counsel to replace MHJP's unique role at this juncture would be extremely harmful to the Debtor, its estate and its creditors. Were the Debtor required to retain counsel other than MHJP in connection with the specific matters upon which employment advice is sought, the Debtor, its estate and all parties in interest would be unduly prejudiced by the time and expense necessary to replicate MHJP's ready familiarity with the intricacies of employment law, its interface with the Bankruptcy Code, and the specific issues confronting the Debtor. As such, the Debtor submits that MHJP is well qualified and uniquely able to provide the specialized legal advice sought by the Debtor on a going-forward basis in connection with the Special Counsel Matters, and MHJP's retention as special counsel is in the best interest of the Debtor and its estate.

#### **Scope of Proposed Retention**

22. The Debtor currently seeks to retain MHJP subject to the oversight and orders of this Court, solely with respect to the Special Counsel Matters. Such

retention is sought pursuant to section 327(e) of the Bankruptcy Code. Section 327(e) states:

The Trustee, with the court's approval, may employ, for a specified purpose, other than to represent the trustee in conducting the case, an attorney that has represented the debtor, if in the best interest of the estate, and if such attorney does not represent or hold any interest adverse to the debtor or to the estate with respect to the matter on which such attorney is to be employed.

Attorneys retained pursuant to section 327(e) are not required to meet the "disinterested" standard set forth in the Bankruptcy Code for retention of professionals under section 327(a). *See In re Hub Business Forms, Inc.*, 146 B.R. 315 (Bankr. D. Mass. 1992). However, special counsel retained pursuant to section 327(e) must not "hold or represent an interest adverse to the debtor or the estate with respect to the matter on which such attorney is to be employed." 11 U.S.C. § 327(e).

23. While certain aspects of the representations may necessarily involve joint efforts by one or more of the law firms retained in this case, the Debtor believes that the services MHJP will provide will be complimentary to, rather than duplicative of, the services to be performed by the other firms retained in this case. Further, the Debtor is mindful of the need to avoid duplication of services, and appropriate procedures will be implemented to ensure minimal duplication of effort, if any, as a result of MHJP's role as special counsel.

### **No Adverse Interest**

24. To the best of the Debtor's knowledge, and based upon the Declaration of Barry W. Marr attached hereto as Exhibit A (the "Marr Declaration"), MHJP does not represent or hold any interest adverse to the Debtor or its estate with respect to the matters on which MHJP seeks to be employed. Further, to the best of the Debtor's knowledge and based upon the Marr Declaration, MHJP does not have any connection with any creditor or other parties in interest, or their respective attorneys or accountants, or the United States Trustee or any of its employees, except as set forth in the Marr Declaration.

### **Compensation**

25. In accordance with sections 330 and 331 of the Bankruptcy Code, compensation will be payable to MHJP on an hourly basis, plus reimbursement of actual, necessary expenses incurred by MHJP. MHJP's hourly rates are set at a level designed to compensate it fairly for the work of its attorneys and paraprofessionals and to cover fixed and routine overhead expenses. Hourly rates vary with the experience and seniority of the individuals assigned and may be adjusted by MHJP from time to time.

26. MHJP's customary hourly rates as charged to both bankruptcy and non-bankruptcy clients are:

- (a) Partner and of Counsels \$210 - \$295
- (b) Associates \$155 - \$185
- (c) Paralegals \$110 - \$120

These hourly rates are customarily adjusted at the beginning of the calendar year.

27. MHJP will keep detailed time and expense records.

28. It is MHJP's policy to charge its clients in all areas of practice for all other expenses incurred in connection with a client's matter. The expenses charged to clients include, among other things, photocopying, witness fees, travel expenses, including certain secretarial and other overtime expenses, filing and recording fees, long distance telephone calls, postage, express mail and messenger charges, computerized legal research charges and other computer services, expenses for "working meals", and telecopier charges. MHJP will charge the Debtor for these expenses in a manner and at rates consistent with charges generally made to its other clients.

29. MHJP is owed \$3,785.36 (the "Prepetition Claim") for prepetition services rendered. As MHJP is being retained as special counsel, MHJP is not required to waive its Prepetition Claim.

30. In the one-year prior to the Petition Date, MHJP was paid a total of \$203,972.25 consisting of \$193,776.61 for legal services provided to the Debtor relating to these matters and \$10,195.64 for related out-of-pocket expenses. None

of this amount specifically related to this bankruptcy case. The Debtor and MHJP believe that these payments were in the ordinary course of the Debtor's business. However, to the extent that there is a determination otherwise, and to the extent that defenses do not apply, payments received in the 90 days prior to the Petition Date could be recoverable under 11 U.S.C. § 547. Because the Debtor does not seek to employ MHJP as general insolvency counsel, the potential preferential transfers do not affect the disinterestedness of MHJP as special counsel with respect to the matters for which it will be engaged. MHJP will have no involvement in decisions about who will be sued for recovery of preferences, claim objections or the prosecution of preference lawsuits. Thus, the Debtor does not believe that MHJP holds or represents an adverse interest with respect to the limited areas in which it will be engaged.

31. The Debtor's management believes that the attorneys at MHJP are well qualified to act on the Debtor's behalf given MHJP's extensive knowledge and expertise in the field of employment law, and related areas. The Debtor further believes that the engagement of MHJP is essential to enable the Debtor to maximize the value of its estate.

32. MHJP will submit interim and final applications for compensation in accordance with the Bankruptcy Rules, the local rules of this Court and such other and further orders as the Court may direct.



33. For the reasons set forth above, the Debtor believes that MHJP is well qualified to serve as its special counsel in the chapter 11 case. Moreover, the retention of MHJP is necessary and in the best interest of the Debtor and its estate.

### **Interim and Final Approval**

34. The Debtor seeks approval of this Application on an interim basis; provided, however, that any party in interest shall have twenty (20) days from the date of entry of the order approving this Application (the "Order") to object to the Debtor's retention and employment of MHJP. If no objection is filed and received by the Debtor and MHJP in such time, the Order shall be deemed final on the twenty-first (21<sup>st</sup>) day after the date of the Order and MHJP's retention and employment on a permanent basis shall be made effective nunc pro tunc to the Petition Date.

35. If a timely objection is received, the Court will set a hearing date and provide notice of such hearing to the appropriate parties.

### **Notice**


36. No trustee, examiner or creditors' committee has been appointed in the Debtor's chapter 11 case. Notice of this Application has been provided to: (i) the Office of the United States Trustee for District of Hawaii; (ii) parties appearing on the Debtor's list of creditors holding the twenty largest unsecured claims; (iii) the Securities and Exchange Commission; and (iv) the Internal Revenue Service.

Given the circumstances, the Debtor submits that no other or further notice need be given.

37. No previous request for the relief sought herein has been made to this Court or any other court.

WHEREFORE, the Debtor respectfully requests that the Court enter an order authorizing the retention and employment of MHJP as special counsel for the Debtor, and grant such other and further relief as this Court may deem just and proper.

Dated: Honolulu, Hawaii, March 21, 2003

By:   
NICHOLAS C. DREHER, ESQ.  
THEODORE D.C. YOUNG, ESQ.  
CADES SCHUTTE LLC

and

LISA G. BECKERMAN, ESQ.  
DAVID SIMONDS, ESQ.  
AKIN GUMP STRAUSS HAUER & FELD LLP

Proposed Counsel for Debtor and Debtor in Possession

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Proposed Counsel for Debtor  
and Debtor in Possession

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF HAWAII**

In re	}	<b>Case No. 03 - 00817</b>
HAWAIIAN AIRLINES,		(Chapter 11)
INC.,		<b>DECLARATION OF BARRY W. MARR IN SUPPORT OF APPLICATION FOR ORDER PURSUANT TO SECTION 327(e) OF THE BANKRUPTCY CODE AUTHORIZING</b>
a Hawaiian corporation,		
Debtor.		

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**EXHIBIT A**

**EMPLOYMENT AND RETENTION OF MARR  
HIPP JONES & PEPPER AS SPECIAL  
COUNSEL TO THE DEBTOR; EXHIBITS A  
AND B**

Date: March 21, 2003  
Time: 2:30 P.M.  
Judge: Hon. Robert J. Faris

I, Barry W. Marr declares as follows:

1. I am a partner in the law firm of Marr Hipp Jones & Pepper ("MHJP"), which firm maintains an office at Pauahi Tower, 1001 Bishop Street, Suite 1550, Honolulu, Hawaii 96813, and I am authorized to execute this declaration on behalf of MHJP.

2. On March 21, 2003 (the "Petition Date"), Hawaiian Airlines, Inc. (the "Debtor") filed a voluntary petition for relief under chapter 11, title 11 of the United States Code (the "Bankruptcy Code").

3. This Declaration is prepared in connection with the Debtor's Application for an Order Pursuant to Section 327(e) of the Bankruptcy Code Authorizing the Employment and Retention of Marr Hipp Jones & Pepper as Special Counsel to the Debtor (the "Retention Application"), in which the Debtor seeks authority to employ MHJP as its employment counsel, and sets forth the

statement required under Rule 2014(a) of the Federal Rules of Bankruptcy Procedure and section 329 of the Bankruptcy Code.

4. Except as specifically set forth herein, neither I nor MHJP as a law firm, to the best of my knowledge, have any connection with any creditor or other parties in interest, or their respective attorneys or accountants, or the United States Trustee or any of its employees.

5. For over five years prior to the Petition Date, MHJP represented the Debtor as employment counsel, which included providing legal advice relating to United States and Hawaii labor and employment law and legal counseling relating to collective bargaining and administration of bargaining agreements, employment issues regarding both union and non-union employees, compliance with state and federal labor and employment laws, and administrative and court labor and employment litigation and arbitration. As a result of this prior history of representation, MHJP is intimately familiar with the complex legal issues that have arisen and are likely to arise in connection with the Debtor's employment issues. Such prior experience will enable efficient and economic representation of the Debtor and will facilitate the completion of the Debtor's reorganization.

6. For prepetition services rendered, MHJP is owed approximately \$3,785.36.

7. Previously, Debtor paid MHJP a general retainer in the amount of \$7,500.00 per month, for legal services to be performed for the Debtor. In the one-year prior to the Petition Date, MHJP was paid a total of \$203,972.25, consisting of \$193,776.61 for legal services provided to the Debtor relating to these matters and \$10,195.64 for related out-of-pocket expenses. Of the \$203,972.25 paid to MHJP, none of the amount specifically related to the Debtor's Chapter 11 case.

8. As part of its diverse practice, MHJP appears in cases, proceedings and transactions involving many different professionals, including attorneys, accountants, financial consultants and investment bankers, some of which may represent claimants and parties in interest in the Debtor's chapter 11 case. In addition, MHJP may have in the past or may currently be representing other professionals involved in this case in matters unrelated to this case. Based on our current knowledge of the professionals involved, and to the best of my knowledge, MHJP does not represent or have a relationship with any attorneys, accountants, financial consultants or investment bankers which would be adverse to the Debtor or its estate.

9. Certain partners, counsel and associates of MHJP have in the past represented, presently represent, and likely in the future will represent corporate entities and individuals that are either creditors or affiliates of the Debtor in matters unrelated to this case. However, MHJP will not provide any legal services to any

of these entities in connection with any matter that arises in this chapter 11 case. MHJP believes that its representation of such creditors or equity security holders in such unrelated matters will not affect its representation of the Debtor in this proceeding as special counsel. If there is any matter related to this case for which such persons or corporate affiliates require representation, unrelated outside counsel will be retained.

10. To check and clear potential conflicts of interest in this case, MHJP researched its client database to determine whether it had any connection with the following entities listed on Exhibit A attached hereto.

11. After performing such conflict checks, MHJP has determined that it has not represented any creditors or affiliates in matters related or unrelated to this chapter 11 case, except as set forth on Exhibit B attached hereto.

12. Subject to Court approval, and in accordance with sections 330(a) and 331 of the Bankruptcy Code, MHJP will seek payment for compensation on an hourly basis, plus reimbursement of actual and necessary expenses. MHJP's customary hourly rates charged to both bankruptcy and non-bankruptcy clients, subject to periodic adjustments to reflect economic and other conditions, are:

- (a) Partner and of Counsels \$210 - \$295
- (b) Associates \$155 - \$185

These hourly rates are customarily adjusted at the beginning of the calendar year.

13. In connection with the reimbursement of actual and necessary expenses, it is MHJP's policy to charge its clients in all areas of practice for expenses incurred in connection with the client's representation. These expenses and charges include, among other things, photocopying, witness fees, travel expenses, certain secretarial and other overtime expenses, filing and recording fees, long distance telephone calls, postage, express mail and messenger charges, computerized legal research charges and other computer services, expenses for "working meals", and telecopier charges. MHJP will charge the Debtor for these expenses in a manner and at rates consistent with charges generally made to its other clients.

14. No promises have been received by MHJP, nor any partner, counsel or associate thereof as to compensation or payment in connection with these cases other than in accordance with the provisions of the Bankruptcy Code. MHJP has no agreement with any other entity to share with such entity any compensation received by in connection with this chapter 11 case.

15. Based upon the information available to me, neither I, MHJP, nor any partner, counsel or associate thereof, insofar as I have been able to ascertain, holds



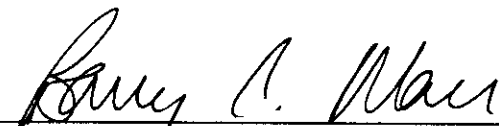
or represents any interest adverse to the Debtor or its estate in the matters for which MHJP seeks to be engaged.

16. MHJP represents that the foregoing constitutes a complete and full disclosure of all prior and current representation of clients which have any connection to this case, and that it has made an effort to discover any conflicts. However, MHJP reserves the right to supplement and amend this Affidavit should it discover further pertinent relationships that require disclosure in this case.

17. The retention of MHJP to perform the services described in the Retention Application is in the best interests of the Debtor and the Debtor's estate.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 21st day of March, 2003.

A handwritten signature in cursive script, appearing to read "Barry W. Marr", is written over a horizontal line.

BARRY W. MARR

## HAL – CONFLICT CHECK LIST

Aer Lingus  
Aero California  
Aero Nova, Inc.  
Aerosim Technologies, Inc.  
Aerotech  
Agentware, Inc.  
Air Caledone  
Air India  
Air Jamaica  
Air Lanka  
Air Marshall Islands  
Air Nevada  
Air Niugini  
Air Pacific  
Air Wisconsin  
Airline Enterprises  
Airline Planning Group  
Airlines Clearing House, Inc.  
Alaska International Airport Systems  
All Island Porter Service  
Alm Antillean Airways  
Aloha Island Air  
Aluminum Shake Roofing, Inc.  
Amadeus Global Travel Distribution S.A.  
ARCO Transportation  
Argenbright Security, Inc.  
ARNV  
Asiana Airlines, Inc.  
Aslana Airlines  
Atlantic Coast Airlines  
Atlantic Southeast Airlines  
Atlantic/Sosnoff Capital Corporation  
Aton Hotels  
AUPA Properties  
AVGroup  
AWMS  
Bahamas Air  
BBA Aviation\BBI and Company  
BBC Equipment Leasing Corp.  
Big Sky Airlines  
  
BJ Communications, Inc.  
Boston Partners  
Boyd Travel, Inc.

**EXHIBIT A**

BP Exploration & Oil, Inc.  
BP Wet  
Brian Lyons  
Brink's International  
British Airways  
Budget Holidays  
Buganvilla Tours, Inc.  
Business Incentives  
Cahn-Cook & Services  
Cap Systems  
Casablanca Express  
Cascade Promotions  
Cathedral Village  
CBX Valuation, Inc.  
Chartwell Investment Partners  
ChaseMellon Shareholders Services  
Collins Aviation Services  
Comair, Inc.  
Compania Mexicana de Aviacion  
Compania Panamena de Aviacion S.A.  
Compaq Computer  
Compar, Inc.  
Concierge Services  
Confidential Express  
Connectivity Systems  
Consolidated Resorts  
Contiki Holidays  
Cooking Kitchen, Inc.  
CR Dispatch Service, Inc  
Dajhic Kangyo Bank  
Dean Investment Associates  
Delta Air Lines, Inc.  
Desert Air Spaces  
Diners Club  
Driftwood Vacations  
Driftwood Ventures, Inc.  
DSI Technology  
Dunc, LLC  
Eagle Canyon  
Eagle Jet Charter, Inc.  
El Al Israel

Etrade  
Eve & Wol, Inc.  
Express Airlines

ExxonMobile  
Fiji Travel  
Financial Management Advisors  
Financial Services Vehicle Trust  
First Bank National Association  
First Los Angeles Bank  
Fisher Investments, Inc.  
Ford Motor  
Froley Revy Investment  
FTD Com, Inc.  
Galileo  
Galuterwbohne  
Garuda Indonesia  
Gate Gourmet  
Gavok International, Inc.  
GE Capital  
Gemni Group  
GMI  
Goldcoast Aviation  
Goldenware  
Golf Holidays International  
Goodyear Tire & Rubber Company  
Gordin Besch, Inc.  
Government of Tahiti  
Graham Builders  
Grand Canyon/Papilion Helicopters  
Great Lakes Aviation  
GSA International  
Gulf Air  
GUS, Inc.  
Haight Gardner  
Hawaii Insurance Consultants  
Hawaiian Hotels  
Hawaiian Trust Co., Ltd.  
HLO Porter Service  
Holland America Lines  
Honolulu Clean Water Committee  
Immigration & Nationalization Service  
Indian Air  
Information Systems Support, Inc.  
Integrity Services, Inc.  
Inter-Canadian  
  
ITA Group  
ITALIC  
JAL Delivery Service

JCB International Credit Card, Co.  
Jeppesen Sanderson, Inc.  
Jet Blue Airlines  
Jet Wash  
John Levin & Company  
Kauai Baggage Service  
Kauai Lagoons  
Kessler Financial  
King County International Airport  
Klursus & Fergus  
KOHA Industries  
Lacsa Airlines  
LAPSA Air Paraguay  
Leasmart, Inc.  
Leisure Company  
Liberty GoGo  
Liebert Global Services  
Life Insurance Co. of North America  
Linea Aerea Nacional de Chile  
LSG Sky Chefs  
Lufthansa German Airlines  
Marine Corps  
Markiar Express  
Martin Gray  
Martin Travel  
Martinair Holland  
Meetings at Rosenbluth  
Mesaba Aviation  
Metcom Online  
Metropolitan West  
Mexicana Airlines  
Mitsubishi  
Moore North Corp  
My Favorite Things  
NATCO  
Navigant International  
Navigator Group  
Norwegian Cruise Line  
Olympia Airlines  
Online Holidays  
Orbitz.com  
Oregon Public Employees Retirement Fund  
Orzard Aircraft Systems  
Paradise Media  
Philippine Airlines  
Phinion and Associates

Port of Moses Lake  
Premire Trans Aire  
Prince Resorts  
Princess Cruises  
Quantas Airways  
Qwest Wireless  
R & C Tours  
Root Leasing, Inc.  
Royal Adventure Travel  
Royal Linen  
Runyon Saltzman and Einhorn  
Salus Capital Management  
San Diego International Airport  
San Diego United Port District  
San Diego-SAS  
Saudi Arabian Airlines  
Scenic Airlines  
Schuler Homes, Inc.  
Seattle Westcoast Gateway Hotel  
Servicemaster of Kauai, Inc.  
Servicios Aeros  
Shata Tours  
Singapore Airlines  
SITA Advanced Travel Solutions  
Site 59  
Sky West Airlines  
Smith Kline Becham  
Societe Air France  
Societe D'Equipment  
Societe D'Exploitation  
Societe Polynesienne  
South Pacific Essential  
Southeast Airlines  
Southern Pacific Resources, Inc.  
Spirit Airline  
Starwood Hotels  
Statistical Sciences, Inc.  
Supreme Travel  
TACA International Airlines  
Tap Air Portugal  
Tasman Pacific Airlines  
Telecheck Services, Inc.  
  
Tesoro Refining  
Thia Airways  
Ticket Plus

Tiger Cruise Travel  
Tow Masters, Inc.  
Trans Hawaiian Services, Inc.  
Travel Design Associates  
Tresorene Generale  
TWA Airlines  
Two Rivers Group  
Universal Air Travel  
US Bank, NA  
US Department of Agriculture  
US Department of Commerce  
US Department of Justice  
Virgin Atlantic Airways  
Virgin Atlantic Holidays Ltd.  
Visa USA  
Walker Travel and Cruises  
Weil & Associates, Inc.

## **HAL – ADDITIONAL CONFLICTS CHECK**

### **HAWAIIAN AIRLINES, INC.**

#### **Shareholders**

AIP, Inc.  
Hawaiian Holdings, Inc.

#### **Officers**

John W. Berry  
Karen A. Berry  
H. Norman Davies  
Christine R. Deister  
Mark B. Dunkerley  
Robert E. Glasgow  
Paul Y. Kobayashi, Jr.  
Blaine J. Miyasato  
Glenn G. Taniguchi  
John R. Wagner  
Ruthann S. Yamanaka

#### **Directors/Main Affiliations**

John Adams  
Smith Management  
Gregory Anderson  
Quality Car Solutions  
Todd Cole  
Cole & Wilds Associates  
Robert Coe  
Joseph Hoar  
J.P. Hoar & Associates  
Reno Morella  
Airline Pilots Association  
Samson Poomaihealani  
International Association of Machinists and Aerospace Workers  
Edward Safady  
Spire Realty Group  
Sharon L. Soper  
Association of Flight Attendants  
William Weisfield  
UTLIX Corporation



## **HAWAIIAN HOLDINGS, INC.**

### **Significant Shareholders<sup>1</sup>**

AIP LLC

Airline Investors Partnership

Dimensional Fund Advisors, Inc.

Amber Arbitrage LDC

Vanguard Fiduciary Trust Company

Association of Flight Attendants

International Association of Machinists and Aerospace Workers

Air Line Pilots Association

### **Officers**

John W. Adams

Ruthann S. Yamanaka

Christine R. Deister

### **Directors/Main Affiliations**

Same as HAL

### **Real Property Lessors**

AIPA Properties LLC

City of Los Angeles

Port of Seattle

City of San Francisco

County of San Francisco

Clark County

Arden Realty Limited Partnership

Kurusu & Fergus

Sears & Roebuck & Co.

Howard Investment Co.

City of Phoenix

State of Alaska

State of Hawaii

Port of Portland

Mitsubishi Jisho, Inc.

American Samoa Government

Societe Polynesienne de Development Touristique

Societe de Equipment de Tahiti des Izes

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<sup>1</sup> Needs to be updated.

### **Parties That Filed UCC Statements**

The Woolson Spice Company  
Lion Coffee  
Sanwa Business Credit Corporation  
Bank of America  
IBM Credit Corporation  
Holler Financial Leasing, Inc.  
Transamerica Equipment Financial Service  
Bank of Hawaii  
Paradise Beverages, Inc.  
First Security Bank  
The Navigator Group, LLC  
Wells Fargo Bank  
Coast Business Credit  
Southern Pacific Bank  
North Fork Bank  
Heller Financial Leasing, Inc.  
RRPF Engine Leasing  
Rolls-Royce  
Fortbrand Services  
BCC Equipment Leasing Corporation  
Bacon Universal Company, Inc.  
Pacific Corporate Federal Credit Union  
Hewlett-Packard

## **EXHIBIT B**

1. MHJP represents the Bank of Hawaii on a variety of employment matters. MHJP engages in consultations regarding employment issues, defends the Bank in administrative and court litigation brought by individual employees or former employees of the Bank, provides advice and drafting of employment-related agreements and other documents, and advises the Bank regarding compliance with federal and state employment laws. None of the work performed by MHJP for the Bank has involved or related to Hawaiian Airlines; nor is any conflict expected regarding our representation of the Bank and the Debtor.
2. MHJP represents the Tesoro on a variety of employment matters. MHJP engages in consultations regarding employment issues, defends Tesoro in administrative and court litigation brought by individual employees or former employees of Tesoro, provides advice and drafting of employment-related agreements and other documents, and advises Tesoro regarding compliance with federal and state employment laws. MHJP also advises Tesoro concerning union issues at its refinery on Oahu, including defense of union grievances in arbitration. None of the work performed by MHJP for Tesoro has involved or related to Hawaiian Airlines; nor is any conflict expected regarding our representation of Tesoro and the Debtor.
3. MHJP has represented Delta Air Lines on a limited basis in defending administrative and court litigation by individual employees. Currently, MHJP represents Delta on only one employment case, which is pending in the Hawaii Supreme Court following the First Circuit Court's dismissal of an individual employee's discrimination claims. None of the work performed by MHJP for Delta has involved or related to Hawaiian Airlines; nor is any conflict expected regarding our representation of Delta and the Debtor.
4. From time to time, MHJP has represented the State of Hawaii on a limited basis regarding labor and employment matters. MHJP does not currently represent the State of Hawaii on any matter. None of the work performed by MHJP for the State of Hawaii has involved or related to Hawaiian Airlines; nor is any conflict expected regarding our representation of State of Hawaii and the Debtor.

IN THE UNITED STATES BANKRUPTCY COURT

DISTRICT OF HAWAII

In re ) **Case No. 03 - 00817**  
 ) (Chapter 11)  
HAWAIIAN AIRLINES, INC., )  
a Hawaii corporation, ) **INTERIM ORDER, PURSUANT TO**  
 ) **SECTION 327(e) OF THE BANKRUPTCY**  
Debtor. ) **CODE, AUTHORIZING THE RETENTION**  
 ) **AND EMPLOYMENT OF MARR HIPP**  
 ) **JONES & PEPPER AS SPECIAL COUNSEL**  
 ) **TO THE DEBTOR**  
 )  
 ) Date: March 21, 2003  
 ) Time: 2:30 P.M.  
 ) Judge: Hon. Robert J. Faris  
 )

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Upon consideration of the application dated March 21, 2003 (the "Application") of Hawaiian Airlines, Inc., as debtor and debtor in possession (the "Debtor"), seeking an order pursuant to section 327(e) of chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") authorizing and approving the retention and employment of Marr Hipp Jones & Pepper ("MHJP") as special counsel to the Debtor, effective as of the commencement of the Debtor's chapter 11 case, all as more fully set forth in the Application; and upon consideration of the Declaration of Barry W. Marr, a member of the firm of MHJP (the "Marr Declaration"); and the Court being satisfied, based on the representations made in the Application and the Marr Declaration that said attorneys represent no interest

adverse to the Debtor's estate with respect to the matters upon which they are to be engaged, and that the Debtor's employment of MHJP is necessary and would be in the best interests of the Debtor and its estate; and it appearing that adequate and sufficient notice of the Application has been given; and sufficient cause appearing therefore, it is

ORDERED that the Application is approved upon the terms set forth herein; provided, however, that any party in interest shall have twenty (20) days from the date hereof to object to the Debtor's retention and employment of MHJP. If no objection is filed and received by the Debtor and MHJP in such time, this Order shall be deemed final on the twenty-first (21<sup>st</sup>) day after the date hereof. If a timely objection is received, the Court will set a hearing date and provide notice of such hearing to the appropriate parties; and it is further

ORDERED that if no objections to MHJP's retention and employment on a permanent basis are timely filed, served and received in accordance with this Order, this Court may enter a final order without further notice or hearing, and the Application shall be granted in its entirety, and MHJP's retention and employment on a permanent basis shall be made effective nunc pro tunc to the date of the commencement of this chapter 11 case; and it is further

ORDERED that notice of the Application as provided therein shall be deemed good and sufficient notice of such Application; and it is further

ORDERED that, in accordance with section 327(e) of the Bankruptcy Code, the Debtor is hereby authorized to employ and retain MHJP as special counsel, effective as the commencement of this chapter 11 case in accordance with MHJP's normal hourly rates and expense reimbursement policies as set forth in the Application upon the terms and conditions set forth in the Application; and it is further

ORDERED that MHJP may apply for compensation and reimbursement in accordance with the procedures set forth in sections 330 and 331 of the Bankruptcy Code and applicable Federal Rules of Bankruptcy Procedure, the Bankruptcy Rules, the Local Rules for the District of Hawaii, and further orders of this Court.

Dated: Honolulu, Hawaii, \_\_\_\_\_, 2003.

\_\_\_\_\_  
UNITED STATES BANKRUPTCY JUDGE

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In re Hawaiian Airlines, Inc., Chapter 11, Case No. 03- 00817 ;  
INTERIM ORDER, PURSUANT TO SECTION 327(e) OF THE BANKRUPTCY  
CODE, AUTHORIZING THE RETENTION AND EMPLOYMENT OF MARR  
HIPP JONES & PEPPER AS SPECIAL COUNSEL TO THE DEBTOR